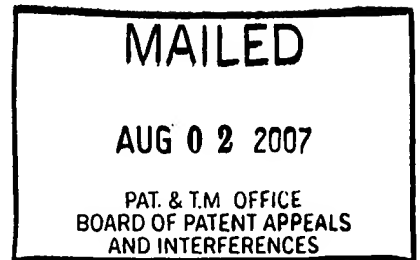


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte: GARY E. BORODIC

Application 09/382,837



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on July 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Application 09/382,837

The Examiner's Answer mailed on March 5, 2007, which stated on page 2 that "[t]he statement of the status of claims contained in the brief¹ is correct."

However, the grounds of rejection are listed as follows:

- (a) Claims 10-12 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,063,768 in view of The Merck Manual.
- (b) Claims 1, 5-8, 24, 25, 42, 43, and 46-57 are rejected under 35 U.S.C. § 112, first paragraph.
- (c) Claims 1, 5-8, 10-12, 21-25, and 42-57 are rejected under 35 U.S.C. § 112, first paragraph, as the specification does not contain a written description of the claims invention.

The Examiner's Answer has included claims 21-23 which was canceled in an amendment filed November 22, 2006. Correction if required.

Accordingly, it is ORDERED that the application is returned to the

Examiner:

¹ Status of Claims in the Brief, page 2 states "[u]pon entry of the Amendment After Final submitted concurrently herewith, (canceling claims 17-19 and 21-23) claims 1, 5-8, 10-12, 24, 25 and 42-57 are pending and presently on appeal."

Application 09/382,837

- 1) to vacate the Examiner's Answer mailed March 5, 2007, to submit a revised Examiner's Answer with the correct claims and the grounds in which they are rejected under; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

Dale M. Shaw
Chief Appeals Administrator
(571)272-9797

DMS/pgc

cc: MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON DC 20006